

Remarks

I. Introduction

Claims 1-20 are currently pending in the subject application, however, claim 2 is now canceled. Claims 1-20 are also currently rejected. Applicant has amended claims 1, 3, 4, 7, 11, 17 and 18. Applicant respectfully submits that all claims are now in condition for allowance.

In addition, applicant thanks the Examiner for the courtesy of a telephone interview with Applicant's undersigned representative to discuss the rejections set forth in the Office Action. The discussions conducted during the telephone interview have been taken into consideration in the present response.

II. Claim rejections under 35 U.S.C. §112

Claim 11 was rejected under 35 U.S.C. §112, second paragraph, "as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicant regards as the invention." Applicant traverses this rejection.

Applicant has herein amended claim 11 to clarify that at least one of the first and second support members is received. Thus, Applicant respectfully submits that claim 11 is in condition for allowance.

III. Claim rejections under 35 U.S.C. §102

To anticipate a claimed invention under 35 U.S.C. §102, "each and every element as set forth in the claim" must be found in the reference. See, e.g., MPEP §2131. Further, to anticipate, the "elements must be arranged [in the cited prior art reference] as required by the claim". See, e.g., MPEP §2131.

Claims 1-6 and 17-20 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent no. 4,018,023 to Anderson (the "'023 patent"). The '023 patent discloses a ceramic pin 10 having a metal socket 40 that is secured to a "shallow annular groove 14" in the pin 10. See '023 patent, col. 3, ll. 30-42. Applicant traverses this rejection.

Without acquiescing to any of the rejections or other statements asserted in the Office Action and expressly reserving the right to further address such rejections and/or statements in the future, Applicant has herein amended independent claims 1 and 17 to clarify that the extension portion/means has a plurality of snap portions. Claims 3-6 depend from claim 1, while claims 18-20 depend from claim 17. Thus, because the '023 patent does not teach or suggest at least these limitations, it does not anticipate these claims.

Claims 1, 6, 17 and 20 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent no. 1,313,795 to Davis (the "'735 patent"). The '735 patent discloses a wire holder having a cap 15 to facilitate the insertion of the wire holder into the post 7. Applicant traverses this rejection.

Applicant asserts that the cap 15 of the '735 patent is not "adapted to contact a shank of the support device", but rather the cap 15 is provided to contact the arms 12 of the head 11 and not the shank 10. Further, without acquiescing to any of the rejections or other statements asserted in the Office Action and expressly reserving the right to further address such rejections and/or statements in the future, Applicant has herein amended independent claims 1 and 17 to clarify that the extension portion/means has a plurality of snap portions. Claim 6 depends from claim 1 and claim 20 depends from claim 17. Thus, because the '735 patent does not teach or suggest at least these noted limitations, claims 1, 6, 17 and 20 are not anticipated.

Claims 1-5 and 17-19 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent no. 3,341,651 to Odegaard (the "'651 patent"). The '651 patent discloses a cable or wire plastic securing device defining a bar 10 made of a suitable flexible and bendable plastic material. See '651 patent, col. 2, ll. 22-23. The bar 10 is generally attached to the spike 40 wherein the spike 40 is driven into the concrete wall 52. See col. 2, ll. 59-62. The bar 10 may then be bent into a U-shape to receive a cable 54 in recess 22. See col. 2, ll. 66-70. Applicant traverses this rejection.

Without acquiescing to any of the rejections or other statements asserted in the Office Action and expressly reserving the right to further address such

rejections and/or statements in the future, Applicant has herein amended independent claims 1 and 17 to clarify that the extension portion/means has a plurality of snap portions and that the driving end and receiving means are rigid. Claims 3-5 depend from claim 1 and claims 18-19 depend from claim 17. Thus, because the '651 patent does not teach or suggest at least these limitations, claims 1-5 and 17-19 are not anticipated.

Based on the following remarks, reconsideration and allowance are respectfully requested for all pending, rejected claims of the subject application.

IV. Claim rejections under 35 U.S.C. §103

Claims 2-4 stand rejected under this section in view of the proposed combination of the '795 and the '023 patents. Applicant traverses this rejection.

A *prima facie* case of obviousness may only be established where three basic criteria are all met. See, e.g., MPEP §2143. There must be a motivation or suggestion to combine or modify teachings with a reasonable expectation of success and the prior art reference(s) must teach or suggest every claim limitation. See *id.*

Claim 2 has been canceled.

Claims 3-4 depend directly from currently amended claim 1, an allowable claim. Further, the '795 and '023 patents lack disclosure of claimed limitation in claim 1. Therefore, applicant submits that claims 3-4 are allowable for at least the same reasons as presented above for amended claim 1.

Claims 7-11, 13 and 14 were rejected as being "unpatentable" over the '651 patent in view of U.S. Patent no. 1,798,468 to Hartzler et al. (the "'468 patent"). Applicant traverses this rejection.

Applicant has amended independent claim 7, to recite similar limitations to the driving device as amended claim 1. More specifically, the '651 patent fails to teach at least a driving device adapted to drive the support device and having a rigid driving end. In addition, there is no nesting portion that engages the split portion of the support device which is also not taught in the '468 patent.

Further, applicant submits that the '651 and '468 do not teach or suggest any combination of the two references, as claimed in amended claim 7. As

such, even if it were possible to combine the '651 and '468 patents, which Applicant does not admit, such a combination fails to teach or suggest all the features of amended independent claim 7.

In view of the above, Applicant submits that the teachings of the '651 patent and the '468 patent are insufficient to establish a *prima facie* case of obviousness with respect to amended claim 7. Further, the Office Action has not established a *prima facie* case of obviousness as to claims 8-11, 13 and 14, which depend from claim 7 either directly or indirectly. Thus, Claims 7-11, 13 and 14 are allowable for at least these reasons. Accordingly, withdrawal of this rejection is requested and Applicant submits that these claims are in condition for allowance.

Claims 7 and 12-14 were rejected as being "unpatentable" over the '795 patent in view of the '468 patent. Applicant traverses this rejection.

As discussed above, Applicant has amended independent claim 7, to recite similar limitations to the driving device as amended claim 1. More specifically, the '795 patent fails to teach at least an extension portion that is adapted to contact the shank of the support device. Further, the '468 patent does not disclose or teach a nesting portion that engages the split portion of the support device.

Further, applicant submits that the '795 and '468 do not teach or suggest any combination of the two references, as claimed in amended claim 7. As such, even if it were possible to combine the '795 and '468 patents, which Applicant does not admit, such a combination fails to teach or suggest all the features of amended independent claim 7.

In view of the above, Applicant submits that the teachings of the '795 patent and the '468 patent are insufficient to establish a *prima facie* case of obviousness with respect to amended claim 7. Further, the Office Action has not established a *prima facie* case of obviousness as to claims 12-14, which depend from claim 7 either directly or indirectly. Thus, Claims 7 and 12-14 are allowable for at least these reasons. Accordingly, withdrawal of this rejection is requested and Applicant submits that these claims are in condition for allowance.

Claims 8-10 stand rejected as being "unpatentable" over the '795 patent in view of the '468 patent and further in view of the '023 patent. Applicant traverses this rejection.

Claims 8-10 depend directly from currently amended claim 7, an allowable claim as discussed above. As also presented above, the '795 and '468 patents lack claimed limitations in amended claim 7 and do not teach all limitation except for snap portions. Further the '023 patent lacks an extension portion having a plurality of snap portions for the same reasons as discussed above. Therefore, applicant submits that claims 8-10 are allowable for at least the same reasons as presented above for amended claim 7 as no *prima facie* case of obviousness is present. Thus, claims 8-10 are allowable for at least these reasons. Accordingly, withdrawal of this rejection is requested.

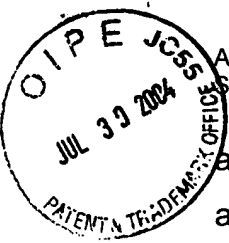
Claims 15-16 stand rejected as being "unpatentable" over the '795 patent in view of the '468 patent and further in view of U.S. patent no. 3,848,080 to Schmidt (the "'080 patent") and U.S. Patent no. 2,257,640 to Muller (the "'640 patent"). Applicant traverses this rejection.

Claims 15-16 depend directly from currently amended claim 7, an allowable claim as discussed above. As also presented above, the '795 and '468 patents lack claimed limitations in amended claim 7 and do not teach all limitation except for a "P" and "J" shape.

Without acquiescing to any of the rejections or other statements asserted in the Office Action regarding the '080 ad '640 patent, and expressly reserving the right to further address such rejections and/or statements in the future, Applicant herein submits that claims 15-16 are allowable for at least the same reasons as presented above for amended claim 7 as no *prima facie* case of obviousness is present. Thus, claims 15-16 are allowable. Accordingly, withdrawal of this rejection is requested.

V. Summary

Applicant respectfully requests withdrawal of the all rejections set forth in the Office Action. Applicant submits that all of the pending claims are in condition for



Atty. Docket No. 030260
Serial No. 10/646,204

allowance. Accordingly, reconsideration and passage to allowance of the subject application at an early date are earnestly solicited. If the undersigned can be of assistance in advancing the Subject Application to allowance, the Examiner may contact the undersigned at the telephone number set forth below.

Respectfully submitted,

Craig M. Waller
Reg. No. 54,771
Attorney for Applicant

KIRKPATRICK & LOCKHART LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, Pennsylvania 15222-2312

Telephone: (412) 355-8355
Fax: (412) 355-6501
E-Mail: cwaller@kl.com

Customer No. 42799